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HEARSAY EVIDENCE IN MATTERS OF PUBLIC OR GENERAL INTEREST. — For many years it has been the custom of English courts to allow hearsay evidence on a matter of public or general interest. Questions as to political boundaries, or public prescription, matters of public concern affecting the entire nation, may be established by hearsay evidence. And even a matter of general interest, which affects the whole or part of a single community, such as manor boundaries or rights of common, are treated in the same way. But the English courts do not extend the exception to the hearsay rule so far as to allow private affairs to be thus established. It is true that the subject of prescription in general, whether public or private, was until the end of the last century supposed to be susceptible of proof by reputation. But *Dunraven v. Llewellyn*, 15 Q. B. 1811, declared in 1850 that it was the settled rule that private prescriptions could not be shown in this way. The American law in many of the States goes further in allowing private boundaries to be defined by reputation. *Morton v. Folger*, 15 Cal. 275 (Supt. Ct.). The intricate skein of individual rights in our early settlements of land could rarely be disentangled except by such a medium of proof. And this doctrine may be traceable to the older English rule as regards private prescription.

The method of proof in a matter of public or general concern formerly consisted in showing what was its reputation in the community *ante litem motam* and this reputation had to be traditionary, not that which was merely current at the time. Formerly when the jurors had a right to go upon their own knowledge, they were expected in a question of antiquity to rely on what had been handed down to them from their fathers. And the application of the older methods is but natural when the jurors are listening to the testimony of a witness as to what he himself heard. Thayer, *Cases on Evidence*, p. 420, note 1. To-day, however, under the guise of reputation, it is stated that the specific declarations of a deceased person are admissible to establish a matter of public or general interest.

The question whether hearsay evidence was admissible in a matter which concerned a number of persons has recently been presented to the Court of Appeal in England in *Evans v. The Urban District Council of Merthyr*, 79 L. T. Rep. 578. On the issue whether a certain bit of land was common land or subject to any commonable rights, either of the commoners of the parish of Cantreff or of the commoners of the parish of Llanfrynach, it was held that evidence of reputation was admissible. It must be taken that the reputation was such as was traditional in the community. Therefore the decision is clearly correct. Disputes as to manor boundaries and manor rights arising frequently in England, such an exception to the rule against hearsay is of much practical value. And the extended rule in America is well suited to a country where vast tracts of land are rapidly being settled.

RECENT CASES.

AGENCY — UNAUTHORIZED CONTRACT — LIABILITY OF PRINCIPAL. — The plaintiff as agent for the defendant, without disclosing the existence of his principal, entered into an unauthorized contract for the sale of fruit, which the defendant later approved, but failed to carry out. The plaintiff being compelled to perform his agreement, *held*, that he was entitled to recover his commission, but not his expenses in fulfilling the contract. *Delafield v. Smith*, 78 N. W. Rep. 170 (Wis.).